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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,615	05/24/2001	Paul G. Jost-Brinkmann	HMN 2 0014	1492

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Scott A McCollister
Fay Sharpe Fagan Minnich & McKee
1100 Superior Ave
7th Floor
Cleveland, OH 44114-2518

EXAMINER

O'CONNOR, CARY E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/786,615

Applicant(s)

JOST-BRINKMANN

Examiner

Cary E. O'Connor

Art Unit

3732

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson (4,901,742). Olson shows a dental floss holder 100 comprising a grip 102 into which can be inserted a floss supply spool, a fork with two prongs 156a, 156b and a holding element 165 for locking the floss. The grip is provided with a resiliently mounted locking mechanism which has a post 120 mounted in the lower part of the grip. The post is operable by pressure for selectively releasing the locking action on the spool. The resilient mounting is implemented by a spring element 130 and the grip has securing elements (walls of chamber 116) for preventing loss of the spiral spring element.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urso (5,323,796) in view of Kuo (4,790,336). Urso shows a dental floss holder 10 comprising a grip 12 into which can be inserted a floss supply spool, a fork with two prongs 18, 18 and connected to the grip by an arm 14, and a holding element 36 on the top of the arm for locking the floss. A guide 82, 83, 84, 85, in the form of a groove, is located within the grip and extends to the prongs on the upper surface of the holder (see Fig. 1). Urso does not show the grip having a drop-shaped construction. Kuo shows a dental floss holder 10 comprising a grip (defined by reference numeral 20 and the adjacent half of reference numeral 12) into which can be inserted a floss supply spool 22, a fork with two prongs 14, 16 and a holding element 34 for locking the floss, and an arm (the half of 12 adjacent the fork) connecting the fork and grip. The grip is considered to be "drop shaped" and the holding element is located on the top of the arm. It would have been obvious to one of ordinary skill in art at the time the invention was made to form the grip of Urso with a drop shape, in view of Kuo, because this shape is ergonomic and easier to handle. As to claims 3-5, without a showing of criticality, the specific dimensions of the floss holder are considered to have an obvious design choice, to one of ordinary skill in the art. As to claim 6, note that the prongs are bent downwards with respect to the longitudinal axis of the dental floss holder, as can be seen in Figure 2. As to claim 7, note that the grip of Kuo comprises a shell-shaped part 20 and a lid 23. As to claim 8, note the post 53 that extends perpendicular to the longitudinal axis of the grip.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (4,901,742) in view of Urso (5,323,796). Olson shows a dental floss holder 100

comprising a grip 102 into which can be inserted a floss supply spool, a fork with two prongs 156a, 156b and a holding element 165 for locking the floss. The grip is provided with a resiliently mounted locking mechanism which has a post 120 mounted in the lower part of the grip. The post is operable by pressure for selectively releasing the locking action on the spool. The resilient mounting is implemented by a spring element 130. The grip is considered to have a drop-shaped configuration. Olson does not include a guide, in the form of a groove, within the grip. Urso shows a floss holder having a guide 82, 83, 84, 85, in the form of a groove, is located within the grip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the grip of Olson with guide grooves as taught by Urso, in order to keep the floss in line with the arm and prongs.

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cary E. O'Connor
Primary Examiner